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Attorneys for Plaintiffs

FILED

JAN 30 2006

RICHARD W. WICKING  
 CLERK U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

FRED ALEXANDER, JR., STANLEY  
 SPARKS, JOSEPH GARZA, DENZILE  
 EVANS, PHILIP THORNBURG,

Plaintiffs,

vs.

LOCKHEED MARTIN CORPORATION,  
 MCDONNELL DOUGLAS  
 CORPORATION, GENERAL ELECTRIC  
 COMPANY, and DOES 1-300,

Defendants.

No. C05-4945 MJJ

JOINT MOTION AND STIPULATION TO  
 STAY PROCEEDING OR, IN THE  
 ALTERNATIVE, TO CONTINUE CASE  
 MANAGEMENT ~~DEADLINE AND~~  
 CONFERENCE, AND TO EXTEND TIME;  
~~PROPOSED ORDER~~  
~~IN THE ALTERNATIVE~~ ORDER  
 TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Order Setting Initial Case Management Conference* filed November 30, 2005 (Document 2), for the following good cause:

On January 3, 2006, Defendant MCDONNELL DOUGLAS CORPORATION filed Document 7, a Notice to Tag Along Action regarding the pending Multidistrict Litigation ("MDL") in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District.

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1 On July 29, 1991, the Judicial Panel on Multidistrict Litigation ("JPML") entered an  
2 order transferring all asbestos personal injury cases pending in the federal courts to the United  
3 States District Court for the Eastern District of Pennsylvania, for coordinated pretrial  
4 proceedings pursuant to 28 U.S.C. § 14097. That order also applies to "tag-along actions," or  
5 actions involving common questions of fact filed after January 17, 1991. Such actions are to be  
6 transferred to the eastern District of Pennsylvania as part of MDL 875, for coordinated pretrial  
7 proceedings.

8 The JPML has held that a district court has the authority to stay pending a transfer order.  
9 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)  
10 ("[T]hose courts concluding that such issues should be addressed by the transferee judge need  
11 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any  
12 unnecessary interruption or delay.")

13 The parties agree that it is likely that the JPML will transfer this matter to the Eastern  
14 District of Pennsylvania.

15 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*  
16 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be  
17 transferred, pursuant to JPML Rule 13(b).

18 It is likely the dates set forth in the *Order Setting Initial Case Management Conference*  
19 filed November 30, 2005 (Document 2), including the deadlines imposed by Federal Rules of  
20 Civil Procedure 26, will come to pass before the Clerk of the JPML acts.

21 In addition, it has come to the attention of counsel that the Judge assigned to hear the  
22 cases pending in MDL 875, the Honorable Charles R. Weiner of the Eastern District of  
23 Pennsylvania, has recently passed away and that the Clerk of that Court has reported a backlog  
24 in cases transferred to that Court by the MDL panel.

25 The parties make this Motion on the grounds that a stay of this action would (a) promote  
26 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the  
27 parties.

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1 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to  
2 and respectfully request the Court VACATE its *Order Setting Initial Case Management*  
3 *Conference* filed November 30, 2005 (Document 2) and that the Court issue an Order STAYING  
4 this action pending the outcome of the MDL Panel's decision on the merits of the transfer.

5 In the alternative, the parties hereby STIPULATE to and respectfully request that the  
6 dates set forth in the *Order Setting Initial Case Management Conference* filed November 4, 2005  
7 (Document 2), be vacated and continued pending the outcome of the JPML's decision on the  
8 merits of the transfer. Specifically, these deadlines include the **February 14, 2006** deadline to  
9 meet and confer, and file Joint ADR Certification, the **February 28, 2006** Deadline to complete  
10 Initial Disclosures, the **February 28, 2006** deadline to file the Joint Case Management  
11 Statement and the Case Management Conference currently set for **March 7, 2006**.

12 Dated: January 19, 2006

BRAYTON♦PURCELL LLP

13 /s/ David R. Donadio

14  
15 By: \_\_\_\_\_

David R. Donadio  
Attorneys for Plaintiffs

16  
17 Dated: January 23, 2006

SEDGWICK, DETERT, MORAN &  
ARNOLD, LLP

18 /s/ Damon McClain

19  
20 By: \_\_\_\_\_

Damon McClain  
Attorneys for Defendant  
GENERAL ELECTRIC COMPANY

21  
22 Dated: January 24, 2006

BRYAN CAVE LLP

23 /s/ Paul Levin

24  
25 By: \_\_\_\_\_

Paul Levin  
Attorneys for Defendant McDONNELL  
DOUGLAS CORPORATION

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1 Dated: January 23, 2006

KNOTT & GLAZIER LLP

2 /s/ Laura Patricia Yee

3 By:

4 Laura Patricia Yee  
Attorneys for LOCKHEED MARTIN  
CORPORATION

5 ~~[PROPOSED] ORDER TO STAY~~

6 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Order*  
7 *Setting Initial Case Management Conference* filed November 30, 2005 (Document 2) are hereby  
8 VACATED and that this action is STAYED pending the outcome of the JPML's decision on the  
9 merits of the transfer.

10 Dated: \_\_\_\_\_

11 \_\_\_\_\_  
12 Martin J. Jenkins  
United States District Court Judge

13 ~~[PROPOSED ALTERNATIVE] ORDER TO CONTINUE~~

14 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Order*  
15 *Setting Initial Case Management Conference* filed November 30, 2005 (Document 2) are hereby  
16 VACATED.

17 IT IS FURTHER ORDERED that the following case management deadlines are  
18 continued as follows:

19 1. Last day to meet and confer re initial disclosures, early settlement, ADR process  
20 selection, and discovery plan is [set for a date on or after July 1, 2006 to wit:] \_\_\_\_\_,  
21 2006;

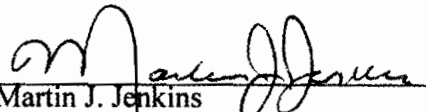
22 2. Last day to file Joint ADR Certification with Stipulation to ADR process or  
23 Notice of Need for ADR Phone Conference is [set for a date on or after July 1, 2006 to wit:]  
24 \_\_\_\_\_, 2006;

25 3. Last day to complete initial disclosures or state objection to Rule 26(f) Report,  
26 file/serve Case Management Statement and file/serve Rule 26(f) Report is [set for a date on or  
27 after July 1, 2006 to wit:] \_\_\_\_\_, 2006; and  
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2 4. The Case Management Conference is [~~set for a date on or after July 1, 2006 to~~  
3 ~~with~~ Tuesday, July 11 2006 at 2:00 p.m., Courtroom 11, 19th Floor, 450 Golden  
4 Gate Avenue, San Francisco, California.

5 Dated: 1/30/2006

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7 Martin J. Jenkins  
8 United States District Court Judge  
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JOINT MOTION AND STIPULATION TO STAY PROCEEDING OR, IN THE ALTERNATIVE, TO CONTINUE CASE MANAGEMENT DEADLINE AND CONFERENCE, AND TO EXTEND TIME: [PROPOSED] ORDER – C85-4945 MJ

1  
2 Dated: 1/23/06

KNOTT &amp; GLAZIER LLP

3  
4 By: Laura Patricia Yee  
Attorneys for LOCKHEED MARTIN  
CORPORATION5  
6 [PROPOSED] ORDER TO STAY7 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Order*  
8 *Setting Initial Case Management Conference* filed November 30, 2005 (Document 2) are hereby  
9 VACATED and that this action is STAYED pending the outcome of the JPML's decision on the  
10 merits of the transfer.  
11

12 Dated: \_\_\_\_\_

13 Martin J. Jenkins  
United States District Court Judge

## 14 [PROPOSED ALTERNATIVE] ORDER TO CONTINUE

15 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Order*  
16 *Setting Initial Case Management Conference* filed November 30, 2005 (Document 2) are hereby  
17 VACATED.  
1819 IT IS FURTHER ORDERED that the following case management deadlines are  
20 continued as follows:

- 21 1. Last day to meet and confer re initial disclosures, early settlement, ADR process
- 
- 22 selection, and discovery plan is set for a date on or after July 1, 2006 to wit: \_\_\_\_\_, 2006;
- 
- 23 2. Last day to file Joint ADR Certification with Stipulation to ADR process or
- 
- 24 Notice of Need for ADR Phone Conference is set for a date on or after July 1, 2006 to wit:
- 
- 25 \_\_\_\_\_, 2006;
- 
- 26 3. Last day to complete initial disclosures or state objection to Rule 26(f) Report,
- 
- 27 file/serve Case Management Statement and file/serve Rule 26(f) Report is set for a date on or
- 
- 28 after July 1, 2006 to wit: \_\_\_\_\_, 2006; and

1 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to  
2 and respectfully request the Court VACATE its *Order Setting Initial Case Management*  
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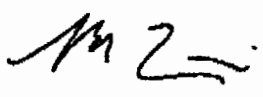
12 Dated: \_\_\_\_\_ BRAYTON♦PURCELL LLP

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14  
15 By: \_\_\_\_\_  
16 David R. Donadio  
Attorneys for Plaintiffs

17 Dated: \_\_\_\_\_ SEDGWICK, DETERT, MORAN &  
18 ARNOLD, LLP

19  
20 By: \_\_\_\_\_  
21 Damon McClain  
Attorneys for Defendant  
GENERAL ELECTRIC COMPANY

22 Dated: 1/24/06 BRYAN CAVE LLP

23  
24 By:  \_\_\_\_\_  
25 Paul Levin  
Attorneys for Defendant McDONNELL  
26 DOUGLAS CORPORATION

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